

per annum in each county, and should be payable to the road and bridge fund in the county where the business is transacted.

Numerously signed.

#### TWENTY-FOURTH DAY.

Senate Chamber,  
Austin, Texas,  
Friday, February 12, 1909.

Senate met pursuant to adjournment, Lieutenant Governor A. B. Davidson presiding.

Roll call, quorum present, the following Senators answering to their names:

Adams.	Peeler.
Alexander.	Perkins.
Brachfield.	Real.
Bryan.	Senter.
Cofer.	Stokes.
Greer.	Sturgeon.
Harper.	Terrell of Bowie.
Hayter.	Terrell of McLennan.
Holsey.	Thomas.
Hudspeth.	Veale.
Hume.	Ward.
Kellie.	Watson.
Masterson.	Weinert.
Mayfield.	Willacy.
Paulus.	

Absent.

Meachum. Murray.

Prayer by the Chaplain, Rev. H. M. Sears.

Pending the reading of the Journal of yesterday, on motion of Senator Perkins, the same was dispensed with.

#### EXCUSED.

Senator Paulus for last Thursday, Friday and for Monday, Tuesday and Wednesday of this week, on account of important business and sickness.

Senator Terrell of McLennan for yesterday, on account of important business.

#### PRIVILEGE STATEMENT.

By Senator Paulus:

Mr. President: Not having been present on last Monday when the vote was taken on the resolution in which the Senate was accused of being intimidated and harassed by lobbyists, I desire to be recorded as voting "nay," on said motion because I have neither been embarrassed, molested nor intimidated by

any lobbyist or any one else and no one has endeavored to embarrass, molest or intimidate me.

I ask consent of the Senate that this be printed in the Journal.

PAULUS.

#### FIRST HOUSE MESSAGE.

Hall of the House of Representatives,  
Austin, Texas, February 12, 1909.

Hon. A. B. Davidson, President of the Senate.

Sir: I am directed by the House to inform the Senate that the House has passed the following bills:

House bill No. 162, A bill to be entitled "An Act to create and establish a criminal district court in and for the county of Harris; to provide for the election of a judge and clerk thereof; to repeal all laws establishing and providing for a criminal district composed of the counties of Galveston and Harris, and to give to the district courts of Galveston county the criminal jurisdiction of district courts of this State as provided for by Section 8, Article 6, of the Constitution of this State," with engrossed rider.

House Concurrent Resolution No. 7, Relative to printing of the Texas Legislative manual.

Substitute Senate bill No. 43, A bill to be entitled "An Act to authorize the formation, creation and establishment of navigation districts to improve rivers, bays, creeks and streams, to construct and maintain canals and waterways to permit of navigation or in aid thereof by the commissioners courts of the several counties in this State or by navigation boards; to provide for the creation and organization of navigation boards where a city or cities, or part or parts thereof, acting under the limits and boundaries of said navigation districts, and defining the powers of such navigation boards; authorizing the ordering and holding of elections for the purpose of voting on the establishment of such districts, and authorizing the issuance of bonds and levy of tax, and the issuance of bonds in payment of such bonds and interest and sinking fund thereon; the appointment of navigation and canal commissioners of such navigation districts for the purpose of carrying into effect the provisions of this act; granting the right of eminent domain to such navigation districts or navigation and canal commissioners, and

authorizing the navigation and canal commissioners to acquire by purchase, gift or grant for such district title to any right of way and other property; authorizing the navigation and canal commissioners to employ engineers, assistant engineers and other employes, and to employ counsel; to enter into contracts for such improvements; to agree or co-operate with the government of the United States, the proper department or officer thereof for the carrying out of such improvements or the supervision of the same, and for all things necessary for the maintenance of such districts according to the provisions of this act; and providing for entering upon lands for surveys, and for all the purposes of this act, and prescribing penalties for violations of this act; repealing all laws and parts of laws in conflict herewith, and declaring an emergency," with amendments.

Senate bill No. 57, A bill to be entitled "An Act putting into effect the constitutional amendment adopted by the people at the last general election, relating to public schools, by amending Sections 50, 57, 58, 59, 60, 61, 63, 65, 66, 76, 77, 78, 80, 81 and 154, and adding 154a, of Chapter 124 of the Acts of the Regular Session of the Twenty-ninth Legislature, relating to school districts and school funds, repealing all laws and parts of laws in conflict herewith, and declaring an emergency," with amendments.

Respectfully,  
BOB BARKER,

Chief Clerk, House of Representatives.

#### BILLS READ AND REFERRED.

The Chair (Lieutenant Governor Davidson) had referred, after their captions had been read, the following House bills (see above message for captions):

House Concurrent Resolution No. 7, referred to Committee on Rules.

House bill No. 162, referred to Committee on Judicial Districts.

#### HOUSE BILL NO. 256 RE-REFERRED.

Senator Ward asked that House bill No. 256 be changed from Judiciary Committee No. 1 to Finance Committee.

There being no objection, the change was so ordered.

#### SIMPLE RESOLUTION.

By Senator Sturgeon:

Austin, Texas, February 12, 1909.

Whereas, Alphonso Steele, the last survivor of the battle of San Jacinto, now ninety-two years old, is now in the Senate Chamber; therefore, be it

Resolved, That the President of this Senate be authorized to make a contract with some painter to paint the bust portrait of the said Alphonso Steele and direct the same to be hung in the Senate Chamber and plainly marked thereon as a picture of the last living survivor of said battle, and that appropriation is hereby made, not to exceed \$200, out of the contingent fund of the Senate for the purpose of defraying the expenses necessary to procuring, framing and hanging said picture.

STURGEON,  
BRYAN,  
COFER,  
STOKES.

The resolution was read and unanimously adopted by a rising vote.

#### BILLS AND RESOLUTIONS.

By Senator Cofer:

Senate bill No. 186, A bill to be entitled "An Act to amend Article 633, Chapter 7, Title 15 of the Revised Penal Code of 1895, relating to the crime of rape, and to declare an emergency."

Read first time, and referred to Judiciary Committee No. 1.

By Senator Masterson:

Senate bill No. 187, A bill to be entitled "An Act to ratify, approve and confirm a certain contract of lease between county of Galveston of the first part, Gulf, Colorado & Santa Fe Railway Company; Galveston, Houston & Henderson Railroad Company; Galveston, Harrisburg & San Antonio Railway Company of the second part, and Galveston-Houston Electric Railway Company of the third part, relating to the causeway and a certain memoranda of agreement executed by Galveston county, Gulf, Colorado & Santa Fe Railway Company; Galveston, Houston & Henderson Railroad Company, and the Galveston, Harrisburg & San Antonio Railway Company, construing Articles 17 and 21 of said contract of lease, and to amend Section 8 of an act approved March 16, 1907, entitled 'An Act to authorize Galveston county to build and

own the combination roadway and bridge from mainland to Galveston Island across Galveston Bay, to connect, as part of the roadways of the county on the island and mainland, and the county to issue bonds for same on taxation; also, establish three-mile limit and condemnation proceedings, and providing for the right of way; also to authorize all corporations contracting for right of way upon or use of said structure; to issue and sell bonds therefor, under the regulation and authority of the Railroad Commission, and to lease and authorize corporations, and the city of Galveston to lease right of easement of user of portion of said structure from such county on terms provided by this act and agreed on with the county commissioners court, with an emergency clause."

Read first time, and referred to Committee on Internal Improvements.

By Senator Veale:

Senate bill No. 188, A bill to be entitled "An Act to incorporate McLean Independent School District, to provide for election of officers, the issuance of bonds, etc., and declaring an emergency."

Read first time, and referred to Committee on Educational Affairs.

By Senator Alexander:

Senate bill No. 189, A bill to be entitled "An Act to create the county court of Tarrant county for civil cases, to fix and prescribe the jurisdiction thereof, and to conform to such change the jurisdiction of the county court of Tarrant county, fixing the salaries of the judges of the county court of Tarrant county and of the county court of Tarrant county for civil cases, providing for the appointment and election of the judges of said court hereby created, providing for the appointment of special judges and filling of said vacancies in said offices, and declaring an emergency."

Read first time, and referred to Committee on Judicial Districts.

By Senator Peeler:

Senate bill No. 190, A bill to be entitled "An Act to amend Section 16 of Chapter 115 of the General Laws of the Twenty-sixth Legislature, as amended by Section 1 of Chapter 113 of the General Laws of the Twenty-eighth Legislature, as amended by Section 16 of Chapter 106 of the General Laws of the Twenty-ninth Legislature, so as to in-

clude in the provision of that section the Telegraphers' Mutual Benefit Association, and to exempt said association from the provision of the laws of this State governing fraternal beneficial associations."

Read first time, and referred to Committee on Insurance, Statistics and History.

By Senator Hudspeth:

Senate bill No. 191, A bill to be entitled "An Act to provide for prospecting for mineral on land owned by the State of Texas, or the public free school fund, and on such land as the State has heretofore or may hereafter sell with the reservation of the mineral therein; also to provide for the prospect and sale of mineral-bearing land, including the minerals and the sale of the minerals in such land as has heretofore or may hereafter be sold with the reservation of minerals therein; providing penalties for the violation of this act, and repealing Chapter 71, Revised Civil Statutes of 1895, and Chapter 99, passed at the Regular Session of the Twenty-ninth Legislature, approved April 15, 1905, and declaring an emergency."

Read first time, and referred to Committee on Public Lands and Land Office.

By Senator Bryan:

Senate bill No. 192, A bill to be entitled "An Act to amend Section 1, Chapter 6 of the Special Laws enacted by the Thirtieth Legislature, entitled 'An Act incorporating the Baird Independent School District in Callahan county, Texas, for free school purposes only; defining its boundaries, and providing for a board of trustees; divesting the city of Baird of the control of its public schools and title to school property and vesting the same in said Baird Independent School District and its board of trustees; prescribing the rights, powers, privileges and duties of said Baird Independent School District and its board of trustees, and repealing all laws in conflict herewith.'"

Read first time, and referred to Committee on Educational Affairs.

By Senator Harper:

Senate bill No. 193, A bill to be entitled "An Act to provide adequate fees for district and county attorneys prosecuting violators of the laws prohibiting the unlawful sale of intoxicating liquors."

Read first time, and referred to Judiciary Committee No. 2.

By Senator Veale:

Senate bill No. 194, A bill to be entitled "An Act to authorize the Wichita Falls Railway Company to own and operate as its own the Wichita Falls & Northwestern Railway Company and the Wichita Falls & Southern Railway Company, to be allowed to issue, if negotiable, bonds, etc."

Read first time, and referred to Committee on Internal Improvements.

By Senator Ward:

Senate Concurrent Resolution No. 7, Granting leave of absence to the judge of the Fortieth Judicial District of Texas.

Read first time, and referred to Committee on State Affairs.

Morning call concluded.

#### SUBSTITUTE SENATE BILL NO. 43— FREE CONFERENCE COM- MITTEE ON.

Senator Hume here called up, as a privilege matter,

Substitute Senate bill No. 43, A bill to be entitled "An Act to authorize the formation, creation and establishment of navigation districts to improve rivers, bays, creeks and streams, to construct and maintain canals and waterways to permit of navigation or in aid thereof by the commissioners courts of the several counties in this State or by navigation boards; to provide for the creation and organization of navigation boards where a city or cities, or part or parts thereof, acting under special charter are included within the limits and boundaries of said navigation districts, and defining the powers of such navigation boards; authorizing the ordering and holding of elections for the purpose of voting on the establishment of such districts, and authorizing the issuance of bonds and levy of tax, and the issuance of bonds in payment for such improvements and the maintenance thereof, and the levying and collecting of taxes for the payment of such bonds and interest and sinking fund thereon; the appointment of navigation and canal commissioners of such navigation districts for the purpose of carrying into effect the provisions of this act; granting the right of eminent domain to such navigation districts or navigation and canal commissioners, and authorizing the navigation and canal commissioners to ac-

quire by purchase, gift or grant for such district title to any right of way and other property; authorizing the navigation and canal commissioners to employ engineers, assistant engineers and other employes, and to employ counsel; to enter into contracts for such improvements; to agree or co-operate with the government of the United States, the proper department or officer thereof for the carrying out of such improvements or the supervision of the same, and for all things necessary for the maintenance of such districts according to the provisions of this act; and providing for entering upon lands for surveys and for all the purposes of this act, and prescribing penalties for violations of this act; repealing all laws and parts of laws in conflict herewith, and declaring an emergency,"

And moved that the Senate do not concur in the following House amendments, and asked for a Free Conference Committee:

(1)

Strike out all after the enacting clause and insert in lieu thereof the following:

Section 1. One or more districts may hereafter be established in the several counties of this State to be known as navigation districts, in the manner hereinafter provided, and such districts, may, or may not, include within their boundaries and limits villages, towns and municipal corporations, or any parts thereof. Such navigation districts when so established may make improvement of rivers, bays, creeks, streams and canals running or flowing through such districts of any part thereof and may construct and maintain canals and waterways to permit of navigation or in aid thereof, may issue bonds in payment thereof as hereinafter provided.

Sec. 2. Upon the presentation to the county commissioners court of any county of this State of a petition (accompanied by the deposit provided for in Section 22 of this act) signed by twenty-five of the resident property taxpayers, or in the event there are less than seventy-five resident property taxpayers in the proposed district, then by one-third of such resident property taxpayers of any proposed navigation district praying for the establishment of a navigation district, and setting forth the boundaries of the proposed district accompanied by a map thereof, the general nature

of the improvement or improvements proposed, and an estimate of the probable cost thereof, and praying for the issuance of bonds and levy of tax in payment thereof and designating a name for such navigation district, which name shall include the name of the county, said petitioners shall make affidavit to accompany said petition of their said qualification and the said commissioners court, shall, at the same session when said petition is presented, set same down for hearing at some regular term of said court, or at some special session of said court, called for the purpose, not less than thirty, nor more than sixty days from the presentation of said petition, and shall order the clerk of said court to give notice of the date and place of said hearing by posting a copy of said petition, and the order of the court thereon, in five public places in said county, one of which shall be at the courthouse door of said county and four of which shall be within the limits of said proposed navigation district, which said notices shall be posted not less than twenty days prior to the time set for the hearing. The said clerk shall receive as compensation for such services, \$1.00 for each such notice and five cents per mile for each mile necessarily traveled in posting such notices.

In the event the boundaries of the proposed district shall include a city or cities, or a part or parts thereof, acting under special charter granted by the Legislature, the hearing of said petition hereinafter provided for, shall be had before the county judge and members of the commissioners court and the mayor and aldermen or commissioners, as the case may be, of said city or cities, and said persons shall constitute a board to be known and designated as the navigation board, to pass upon the petition aforesaid, each individual member of the said board shall be entitled to a vote, a majority in number of the individuals composing said board shall constitute a quorum and the action of a majority of the quorum shall control.

In the event the hearing of said petition shall be had before the navigation board, the commissioners court of said county shall set the petition down for hearing not less than thirty, nor more than sixty days from the date of the presentation of said petition without reference to any term of the commissioners court, but said hearing shall be held at the regular place of meeting of the commissioners court and notice shall be

given of the hearing in the manner and for the time as hereinbefore provided.

The county clerk shall enter and record the proceedings of the navigation board in a record book kept for this purpose, which record shall be a public archive.

The duties and powers herein conferred upon the county judge and members of the commissioners court and upon the mayor and aldermen or commissioners of cities and upon the county clerk other officers are made a part of the legal duty of said officials which they shall render and perform without additional compensation, unless otherwise provided herein.

Sec. 3. Upon the day set by said county commissioners for the hearing of said petition, any person who has taxable property within the proposed district, or who may be affected thereby, may appear before the said court or navigation board, as the case may be, and contest the creation of said district, or contend for the creation of said district, and may offer testimony in favor of or against the boundaries of the said district, to show that the proposed improvement or improvements would or would not be of any public utility, and would or would not be feasible or practicable, and the probable cost of such improvement or improvements, or as to any other matter pertaining to the proposed district. Said county commissioners court or navigation board shall have exclusive jurisdiction to hear and determine all contests and objections to the creation of such districts, and all matters pertaining to the creation and establishment of the same, and shall have exclusive jurisdiction in all subsequent proceedings of the district when organized, except as hereinafter provided, and may adjourn hearing on any matter connected therewith from day to day, and all judgments or decisions rendered by said court or navigation board in relation thereto shall be final, except as herein otherwise provided.

Sec. 4. If at the hearing of said petition it shall appear to the commissioners court or navigation board, as the case may be, that the proposed improvement is feasible and practicable, that it would be a public benefit and a public utility, and if the court or navigation board, as the case may be, shall approve the boundaries of the proposed district as set out in said petition, then the court or navigation board shall so find and shall also find the amount of money necessary for said improvement

or improvements and for all expenses incident thereto, and shall determine whether to issue bonds for said full amount or in the first instance for a less amount, and shall specify the amount of bonds to issue, the length of time the bonds shall run and the rate of interest said bonds shall bear and cause its findings to be recorded in the records of the commissioners court or minutes of the navigation board, as the case may be. If the court or navigation board shall find that the proposed improvement is feasible and practicable, that it would be a public benefit and a public utility, but does not approve the boundaries of the proposed districts as set forth in the petition, the court or navigation board shall so find and shall also find the amount of money necessary for said improvement, or improvements, and for all expenses incident thereto, and shall determine whether to issue bonds for said full amount or in the first instance for a less amount and shall specify the amount of bonds to issue, the length of time the bonds shall run and the rate of interest said bonds shall bear and cause its findings to be entered of record, together with a map thereof. Providing, however, that before any change is made by said court or navigation board, as the case may be, of the boundaries, notice and a hearing thereof shall be given and had as provided for in Section 2 of this act. If the court or navigation board shall find that the proposed improvement is not feasible or practicable, or that it would not be a public benefit or public utility, and that the establishment of such navigation district is therefore unnecessary, then the court or navigation board shall enter such findings of record and dismiss the petition at the cost of petitioners, but the order dismissing said petition shall not prevent or conclude the presentation at a later date of a similar petition.

Sec. 5. After the hearing upon the petition, as herein provided, if the court or navigation board, as the case may be, shall find in favor of the petitioners, for the establishment of a navigation district according to the boundaries as set out in said petition, or as changed or modified as above provided by the said court or navigation board, the commissioners court of said county shall order an election in which order provision shall be made for submitting to the qualified property taxpaying voters resident in said district whether or not such navigation district shall be created and whether or not a tax shall be levied

sufficient to pay the interest and provide a sinking fund sufficient to redeem said bonds at maturity, said order specifying the amount of bonds to be issued, together with the length of time the bonds shall run and the rate of interest said bonds shall bear as said matters have been determined by the commissioners court or navigation board, as the case may be, under the provisions of Section 4 of this act. Said election to be held within such proposed navigation district at the earliest legal time, at which election there shall be submitted the following propositions, and none other: "For the navigation district and issuance of bonds and levy of tax in payment thereof." "Against the navigation district and issuance of bonds and levy of tax in payment thereof." Provided, that said bonds shall not exceed in amount one-fourth of the assessed valuation of the real property of such district as made by the last annual assessment thereof for State and county taxation.

Sec. 6. Notice of such election stating the time and place of holding the same, shall be given by the clerk of the county court by posting notices thereof in four public places in such proposed navigation district and one at the courthouse door of the county in which such district is situated, for thirty days prior to the date set for the election. Such notices shall contain the proposition to be voted upon as set forth in Section 5 of this act, and shall also specify the purpose for which said bonds are to be issued, and the amount of said bonds, and shall contain a copy of the order of the court ordering the election.

Sec. 7. The manner of conducting said election shall be governed by the election laws of the State of Texas, except as herein otherwise provided. None but resident property taxpayers who are qualified voters of said proposed district shall be entitled to vote at any election on any question submitted to the voters thereof by the county commissioners court at such election. The county commissioners court shall create and define by an order of the court the voting precincts in the proposed navigation district and shall name a polling place or places within said precincts taking into consideration the convenience of the voters in the proposed navigation district, and shall also select and appoint the judges and other necessary officers of the election, and shall provide one and one-half times as many ballots as there are qualified resident property taxpaying voters within such

navigation district. Said ballot shall have printed thereon the words, and none others: "For the navigation district, and issuance of bonds and levy of tax in payment thereof." "Against the navigation district, and issuance of bonds and levy of tax in payment thereof."

Sec. 8. Every person who offers to vote in any election held under the provisions of this act shall first take the following oath before the presiding judge of the polling place wherein he offers to vote, and the presiding judge is hereby authorized to administer same: "I do solemnly swear (or affirm) that I am a qualified voter of ..... county, and that I am a resident property taxpayer of the proposed navigation district voted on at this election, and I have not voted before at this election."

Sec. 9. Immediately after the election the presiding judge at each polling place shall make return of the result in the same manner as provided for in election for State and county officers and return the ballot boxes to the county clerk, who shall keep same in a safe place and deliver them, together with the returns from the several polling places, to the commissioners court at its next regular session or special session called for the purpose of canvassing the vote, and the county commissioners shall at such session canvass the vote, and if it be found that a two-thirds majority of those voting at such election shall have been cast in favor of the navigation districts, and the issuance of bonds and levy of tax, then the court shall declare the result of said election to be in favor of said navigation district, and shall enter same in the minutes of the court, as follows:

"Commissioners court of ..... county, Texas, ..... term, A. D. ...., in the matter of petition of ..... and ..... others, praying for the establishment of a navigation district, and issuance of bonds and levy of taxes in said petition fully described and designated by the name of ..... navigation district ..... Be it known that at an election called for that purpose in said district, held on the ..... day of ..... A. D. ...., a two-thirds majority of the resident property taxpayers voting thereon voted in favor of the creation of said navigation district, and the issuance of bonds and the levy of a tax. Now, therefore, it is considered and ordered by the court that said navigation district be, and the same is here-

by established by the name of ..... navigation district, and that the bonds of said district in the amount of ..... dollars be issued and a tax of ..... cents on the hundred dollars of valuation or so much thereof as may be necessary, be levied upon all property within said navigation district, whether real, personal, mixed or otherwise, sufficient in amount to pay the interest on such bonds, and provide a sinking fund sufficient to redeem them at maturity, and that if said tax shall at any time become insufficient for such purposes, same shall be increased until same is sufficient. The metes and bounds of said district being as follows, to wit:"

Sec. 10. After the establishment of any navigation district as herein provided, the commissioners court or navigation board, as the case may be, shall appoint three navigation and canal commissioners, all of whom shall be residents of the proposed navigation district, who shall be freehold property taxpayers and legal voters of the county, whose duties shall be as hereinafter provided, and who shall each receive for their services such compensation as may be fixed by the commissioners court and made of record. Said navigation and canal commissioners shall hold office for the term of two years and until their successors have qualified unless sooner removed by a majority vote of the county commissioners or navigation board, as the case may be, for malfeasance or non-feasance in office. Upon the expiration of the term of office of said navigation and canal commissioners the commissioners court or navigation board, as the case may be, shall appoint their successors by a majority vote. Should any vacancy occur through the death or resignation, or otherwise, of any commissioner, the same shall be filled by the commissioners court or the navigation board, as the case may be.

Sec. 11. Before entering upon their duties all navigation and canal commissioners shall take and subscribe before the county judge an oath to faithfully discharge the duties of their office without favor or partiality, and to render a true account of their doings to the court or navigation board by which they are appointed whenever required to do so, which oath shall be filed by the county clerk and preserved as a part of the records of said navigation district.

Sec. 12. Before entering upon their duties each of the navigation and canal commissioners shall make and enter into a good and sufficient bond in the

sum of \$1000, payable to the county judge, for the use and benefit of said navigation district and conditioned upon the faithful performance of their duties.

Sec. 13. The navigation and canal commissioners shall organize by electing one of their number chairman and one secretary and two of the commissioners shall constitute a quorum and a concurrence of two shall be sufficient in all matters pertaining to the business of said district.

Sec. 14. The navigation and canal commissioners shall have authority to employ a competent engineer, whose term of office shall be at the will of the navigation and canal commissioners, and who shall receive such compensation as may be determined by the navigation and canal commissioners. It shall be the duty of the engineer to make all necessary surveys, examinations, investigations, maps, plans and drawings with reference to the proposed improvements; he shall make estimate or estimates of the cost of same; shall supervise the work of improvement and shall do and perform all such duties as may be required of him by the navigation and canal commissioners. Provided, that if the river, creek, stream, bay, canal or waterway to be improved is navigable or the improvement proposed be of such nature as requires the permission or consent of the government of the United States or any department or officer of the government of the United States, the navigation and canal commissioners shall be authorized to obtain the required permission or consent of the government of the United States or any proper officer or department thereof; and in lieu of the employment of an engineer as herein provided or in addition thereto, the navigation and canal commissioners shall have power to adopt any survey of the river, creek, canal, stream, bay or waterway theretofore made by the government of the United States or any department thereof, and to arrange for surveys, examinations and investigations of the proposed improvement, and for supervision of the work of improvement by the government of the United States or the proper department or officer thereof; provided, that said navigation and canal commissioners shall have full power and authority to co-operate and act with the government of the United States or any officer or department thereof, in any and all matters pertaining to or relating to the construction and maintenance of said canals, and the improvement and navigation of all such

navigable rivers, bays, creeks, streams, canals and waterways, whether by survey, work or expenditure of money made or to be made, either by said navigation and canal commissioners or by said government of the United States or any proper officer or department thereof, or by both, and to the end that the said government of the United States may aid in all such matters, the said commissioners shall have authority to agree and consent to the said government of the United States entering upon and taking management and control of said work, in so far as it may be necessary or permissible under the laws of the United States and the regulations and orders of any department thereof.

Sec. 15. When the said navigation and canal commissioners shall have determined the cost of the proposed improvement or improvements, all of the expenses incident thereto and cost of maintenance thereof, the said navigation and canal commissioners shall certify to the commissioners court of the county in which such district is situated, the amount of bonds necessary to be issued, and thereupon the said court at a regular or special meeting shall make an order directing the issuance of navigation bonds for such navigation districts in the amount so certified; provided, that the amount of bonds shall not exceed the amount authorized by the election therefore held. In the event the proceeds of bonds issued by such navigation district should be insufficient to complete the proposed improvement or construction, or in the event the navigation and canal commissioners shall determine to make other and further construction or improvements or shall require additional funds with which to maintain the improvements made, they shall certify to the commissioners court of the county in which such district is situated the necessity for an additional bond issue, stating the amount required and the purpose of the same; the rate of interest of said bonds and the time for which they are to run, whereupon the commissioners court shall issue such bonds unless the amount previously authorized shall have been exhausted, in which case the commissioners court shall order an election on the issuance of said bonds, to be held within such navigation district at the earliest possible legal time, and in the manner hereinbefore provided for the original issue of bonds, at which election there shall be submitted the following propositions, and none other: "For the issuance of



bonds and levy of tax in payment thereof." "Against the issuance of bonds and levy of tax in payment thereof." Notices of such election shall be given as provided in Section 6 of this act, and the election shall be held and conducted in the manner provided in Sections 7 and 8 of this act. Only those who are qualified property taxpaying voters as provided in this act shall vote at such election, and the returns of such election shall be canvassed as provided in Section 9 of this act.

Sec. 15a. If, upon a canvass of the vote, the commissioners court shall determine that a two-thirds majority of the votes cast at said election shall have been cast in favor of the issuance of bonds and levy of tax, the said court shall make an order directing the issuance of said bonds and levy of tax; provided, however, that the outstanding bonds and the additional bonds so ordered shall not exceed in amount one-fourth of the assessed value of the real property in such district as shown by the last annual assessment thereof made for State and county taxation.

Sec. 16. All bonds issued under the provisions of this act shall be issued in the name of the navigation district, signed by the county judge and attested by the clerk of the county court, with the seal of the commissioners court affixed thereto, and such bonds shall be issued in denominations of not less than \$100 nor more than \$1000 each, and such bonds shall bear interest at a rate not to exceed 5 per cent per annum. Such bonds and interest shall by their terms be made payable at the county treasurer's office of the county in which such navigation district is located, or elsewhere as may be fixed by said navigation and canal commissioners, and no bonds shall be made payable more than forty years after date.

Sec. 17. Any navigation district in the State of Texas desiring to issue bonds in accordance with this act shall, before such bonds are offered for sale, forward to the Attorney General a copy of the bonds to be issued, a certified copy of the order of the commissioners court levying the tax, copy of the order of the commissioners court levying the tax to pay interest, and provide a sinking fund, and a statement of the total bonded indebtedness of such navigation district as such including the series of bonds proposed and the assessed value of property for the purpose of taxation, as shown by the last official assessment by the county, together with such other information as the Attorney General

may require, whereupon it shall be the duty of the Attorney General to carefully examine said bonds in connection with the facts and the Constitution and laws on the subject of the execution of such bonds, and if, as the result of such examination the Attorney General shall find that such bonds were issued in conformity with the Constitution and laws, and that they are valid and binding obligations upon such navigation district by which they are issued, he shall so officially certify.

Sec. 18. When said bonds have been examined by the Attorney General and his certificate issued to that effect they shall be registered by the State Comptroller in a book to be kept for that purpose, and the certificate of the Attorney General to the validity of such bonds shall be preserved of record for use in the event of litigation. Such bonds, after being approved by the Attorney General, and after having been registered in the Comptroller's office as herein provided, shall thereafter be held in every action, suit or proceeding in which their validity is or may be brought in question, prima facie, valid and binding obligations. And in every action brought to enforce collection of said bonds or interest thereon, the certificate of the Attorney General or a duly certified copy thereof shall be admitted and received as prima facie evidence of the validity of such bonds, together with the coupons thereto attached; provided, that the only defense that can be offered against the validity of said bonds, or coupons shall be forgery or fraud. But this article shall not be construed to give validity to any such bonds or coupons as may be issued in excess of the limit fixed by the Constitution, or contrary to its provisions, but all such bonds shall, to the extent of such excess, be held void.

Sec. 19. Before issuing any bonds under the provisions of this act, the county commissioners court shall provide a well-bound book, in which a record shall be kept by the county clerk of all bonds issued, with their numbers, amount, rate of interest and date of issue, when due, where payable and amount received for the same, and the annual rate per cent assessment made each year to pay the interest on said bonds, and provide a sinking fund for their payment. And said book shall at all times be open to the inspection of all parties interested in said district, either as taxpayers or bondholders, or otherwise, and upon the payment of any bond an entry thereof shall be made in

said book. The county clerk shall receive for his services in recording all bonds and other instruments of the navigation district the same fees as provided by law for other like records.

Sec. 20. When such bonds have been registered, as provided for in the preceding section of this act, the chairman of the navigation and canal commissioners shall offer for sale and sell said bonds on the best terms and for the best price possible, but none of said bonds shall be sold for less than the face par value thereof and accrued interest thereon, and as fast as said bonds are sold, all moneys received therefor shall be paid to the county treasurer, and shall by him be placed to the credit of such navigation district.

Sec. 21. Before the said chairman of the navigation and canal commissioners shall be authorized to sell any of the navigation bonds he shall execute a good and sufficient bond, payable to the county judge or his successors in office, to be approved by the county commissioners court of said county for an amount not less than the amount of the bonds issued, conditioned upon the faithful discharge of his duties.

Sec. 22. All expenses of any kind, after the filing of the original petition, necessarily incurred in connection with the creation, establishment and maintenance of any navigation district organized under the provisions of this act shall be paid out of the "Construction and Maintenance Fund" of such navigation district, which fund shall consist of all moneys received from the sale of bonds and all other amounts received by said district from whatever source, except the tax collections applied to the sinking fund and payment of interest on the navigation bonds. Provided, that should the proposition of the creation of such navigation district and issuance of bonds be defeated at the election called to vote upon same, then all expenses up to and including said election shall be paid in the following manner: When the original petition praying for the establishment of a navigation district is filed with the county commissioners court, it shall be accompanied by \$500 in cash, which shall be deposited with the clerk of said county commissioners court and by him held until after the result of the election for the creation of said navigation district has been declared and entered of record by the commissioners court, as hereinbefore provided, and should the result of said election be in favor of the establishment of said dis-

trict, then the said \$500 shall be by said clerk returned to the signers of said original petition, or their agent or attorney; but should the result of said election be against the establishment of said district, then the said clerk shall pay out of the said \$500, upon vouchers signed by the county judge, all costs and expenses pertaining to the said proposed district up to and including the said election, and shall return the balance, if any, of said \$500 to the signers of said original petition, or their agent or attorney.

Sec. 23. Whenever any such navigation district bonds shall have been voted the commissioners court shall levy and cause to be assessed and collected improvement taxes upon all property within said navigation district, whether real, personal, mixed or otherwise, and sufficient in amount to pay the interest on such bonds, together with an additional amount to be annually placed in a sinking fund sufficient to discharge and redeem said bonds at their maturity.

If advisable, the sinking fund shall from time to time be invested by the commissioners court of the county in such county, municipal, district or other bonds as shall be approved by the Attorney General of the State.

Sec. 24. The county commissioners court shall provide all necessary additional books for the use of the assessor and collector of taxes and the county clerk for such navigation district, and charge of the cost of same to the said navigation district. It shall be the duty of the county tax assessor, when ordered to do so by the commissioners court, to assess all property within such navigation district and list the same for taxation in the books or rolls furnished him by said commissioners court for that purpose, and return said books or rolls at the same time when he returns other books or rolls of the State and county taxes for correction and approval; and if the said commissioners court shall find said books or rolls correct, they shall approve the same, and in all matters pertaining to the assessment of property for taxation in said districts the tax assessor and board of equalization of the county in which said district is located shall be authorized to act and shall be governed by the laws of Texas for assessing and equalizing property for State and county taxes, except as herein provided. All taxes authorized to be levied by this act shall be a lien upon the property upon which said taxes are assessed, and said taxes may be paid and shall mature and be paid at the

time provided by the laws of this State for the payment of State and county taxes, and all the penalties provided by the laws of this State for the non-payment of State and county taxes shall apply to all taxes authorized to be levied by this act. The tax assessor shall receive for said services such compensation as the said navigation and canal commissioners shall deem proper, provided that said county assessor shall in no event be allowed more than he is now allowed by law for the like services. Should the tax assessor fail or refuse to comply with the orders of the commissioners court requiring him to assess and list for taxation all the property in such navigation districts as herein provided, he shall be suspended from the further discharge of his duties by the commissioners court of his county, and he shall be removed from office in the mode prescribed by law for the removal of county officers.

Sec. 25. The tax collector of the county shall be charged by the county commissioners court with the assessment rolls of the navigation district, and he shall be allowed no more compensation for the collection of said taxes than he is now allowed for the collection of other taxes, same to be fixed by the navigation and canal commissioners. The county commissioners court shall require the tax collector of the county to give an additional bond or security in such a sum as they may deem proper and safe to secure the collection of said taxes, and in all matters pertaining to the collection of taxes levied under the provisions of this act the tax collector shall be authorized to act and shall be governed by the laws of Texas for the collection of State and county taxes except as herein provided, and suits may be brought for the collection of said taxes and the enforcement of the tax liens created by this act. Should any collector of taxes fail or refuse to give such additional bond or security as herein provided when requested by the commissioners court, within the time prescribed by law for such purposes, he shall be suspended from office by the commissioners court of his county, and immediately thereafter be removed from office in the mode prescribed by law.

Sec. 26. It shall be the duty of the tax collector to make a certified list of all delinquent property upon which the navigation tax has not been paid and return the same to the county commissioners court, which shall proceed to have the same collected by the sale of

such delinquent property in the same manner both by suit and otherwise as is now provided for the sale of property for the collection of State and county taxes, and at the sale of any property for any delinquent tax the navigation and canal commissioners may become the purchasers of the same for the benefit of the navigation district.

Sec. 27. It shall be the duty of the county treasurer to open an account with the navigation district and to keep an accurate account of all moneys received by him belonging to such district and of all amounts paid out by him. He shall pay out no money except upon a voucher signed by the chairman or any two of the said navigation and canal commissioners, and he shall carefully preserve on file all orders for the payment of money, and as often as required by the said navigation and canal commissioners or the county commissioners court he shall render a correct account to them of all matters pertaining to the financial condition of such district.

Sec. 28. The county treasurer shall execute a good and sufficient bond, payable to the navigation and canal commissioners of such district, in a sum equal to twice the amount of bonds issued, conditioned for the faithful performance of his duty as treasurer of such district, which bond shall be approved by said navigation and canal commissioners, and the treasurer shall be allowed such compensation for his services as such treasurer as may be determined by the navigation and canal commissioners, not exceeding the same per cent as is now allowed by the county for his services as county treasurer.

Sec. 29. The right of eminent domain is hereby conferred upon all navigation districts established under the provisions of this act for the purpose of condemning and acquiring the right of way over and through any and all lands, private or public, except property used for cemetery purposes, necessary for the improvement of any river, bay, creek or stream, and the construction and maintenance of any canal or waterway, and for any and all purposes authorized by this act. All such condemnation proceedings shall be instituted under the direction of the navigation and canal commissioners and in the name of the navigation district, and the assessing of damages shall be in conformity to the statutes of the State of Texas for condemning and acquiring the right of way by railroads; provided, that no appeal from the finding and assessment of dam-

age by the commissioners appointed for that purpose shall have the effect of causing a suspension of work by the navigation commissioners in prosecuting the work of improvement in all of its details; provided, that no right of way can be condemned through any part of an incorporated city or town without the consent of the lawful authorities of such city or town.

Sec. 30. The navigation and canal commissioners of any district are hereby empowered to acquire the necessary right of way and property of any kind for all necessary improvements contemplated by this act, by gift, grant, purchase or condemnation proceedings.

Sec. 31. The navigation and canal commissioners of any district and the engineers from the time of their appointment are hereby authorized to go upon any lands lying within said district for the purpose of examining the same, making plans, surveys, maps and profiles, together with all necessary teams, help, tools and instruments, without subjecting themselves to action or trespass, and any person who shall wilfully prevent or prohibit any such officer from entering any land for such purposes shall be guilty of a misdemeanor and upon conviction may be fined in any sum not exceeding \$25 for each day he shall so prevent or hinder such officer from entering upon any land, and any justice of the peace in the county shall have jurisdiction of all such offenses.

Sec. 32. If the improvement or improvements be not carried out and performed by the government of the United States as herein provided, the contract or contracts for such improvement or improvements shall be let by the navigation and canal commissioners and the same shall be awarded to the lowest and best responsible bidders, after giving notice by advertising the same in one or more newspapers of general circulation in the State of Texas once a week for four consecutive weeks and by posting notices for at least thirty days in five public places in the county, one of which shall be at the court house door, and at least two of which shall be within said navigation district. Nothing herein contained shall prevent the making of more than one improvement, and where more than one improvement is to be made the contract may be let separately for each or one contract for all such improvements.

Sec. 33. Any person, corporation or firm desiring to bid on the construction of any work advertised for as provided

under the preceding section of this act, shall upon application to the navigation and canal commissioners be furnished the survey, plans and estimates for the said work, and all bids or offers for any of such work shall be in writing and sealed and delivered to the chairman of the navigation and canal commissioners together with a certified check for at least 5 per cent of the total amount bid, which shall be forfeited to the district in case the bidder refuses to enter into a proper contract if his bid is accepted. Any and all bids may be rejected at the discretion of the navigation and canal commissioners.

Sec. 34. All contracts made by the navigation and canal commissioners shall be reduced to writing and signed by the contractors and navigation and canal commissioners or any two of said commissioners and a copy of same filed with the county clerk for reference.

Sec. 35. The party, firm or corporation to whom any such contract is let shall give bond, payable to the navigation and canal commissioners for said district, in twice the amount of the contract price conditioned that he, they or it will faithfully perform the obligations, agreements and covenants of their contract, and that in default thereof, will pay to said district all damages sustained by reason thereof. Said bond shall be approved by such navigation and canal commissioners.

Sec. 36. All work contracted for by the navigation and canal commissioners, unless done under the supervision of the government of the United States, or the proper department officer thereof, shall be done under the supervision of the engineer, and when the work is completed according to contract the engineer shall make a detailed report of the same to the navigation and canal commissioners, showing whether the contract has been fully complied with, according to its terms, and if not in what particular it has not been so complied with.

Sec. 37. The navigation and canal commissioners shall have the right, and it is hereby made their duty during the progress of the work being done under contract to inspect the same; and upon the completion of any contract, they shall draw a warrant on the county treasurer for the amount of the contract price in favor of the contractor or his assignee, which warrant shall be paid out of the construction and maintenance fund of such district; provided, that if the navigation and canal commission-

ers shall deem it advisable they may contract for the work to be paid for in partial payments as the work progresses, but such partial payments shall not exceed in the aggregate 80 per cent of the total amount to be paid under the contract, the amount of work completed to be shown by a certificate of the engineer; and provided further, that nothing in this section shall affect the provisions of this act, providing for the carrying out and performing of the improvement or improvements by the Government of the United States.

Sec. 38. The navigation and canal commissioners shall make an annual report of their acts and doings as such commissioners and file the same with the clerk of the county court on or before the first day of January each year, which report shall show in detail the kind, character and amount of work done in the district, the cost of same and the amount paid out on order, for what purpose paid and other data necessary to show the condition of improvements made under the provisions of this act.

Sec. 39. The navigation and canal commissioners are hereby authorized and empowered to employ such assistant engineers and other employees as may be necessary, paying such compensation as they may determine, and the said commissioners are authorized to employ counsel to represent such district in the preparation of any contract or the conducting of any proceedings in or out of court, and to be the legal advisor of the navigation and canal commissioners on such terms and for such fees as may be agreed upon by them, and such commissioner shall have the authority to draw warrant or warrants in payment of such legal services and for the salary of the engineer, his assistant or any other employees and for all expense incident and pertaining to the navigation district.

Sec. 40. Neither the county judge nor any county commissioner, nor member of the navigation board, nor the navigation and canal commissioners or engineers shall be directly or indirectly interested for themselves or as agents for any one else in the contract for the construction of any work to be performed by such navigation district, and if said officers or either of them shall directly or indirectly, become interested in any contract for such work, or in any fee paid by such navigation district whereby he or others shall receive any money consideration or other thing of

value, except in payment of services as in this act provided, he shall be guilty of a misdemeanor, and on conviction thereof shall be punished by imprisonment in the county jail for not less than six months nor more than one year.

Sec. 41. All navigation districts established under this act may, by and through the navigation and canal commissioners, sue and be sued in all courts of this State in the name of such navigation district, and all courts of this State shall take judicial notice of the establishment of all such districts.

Sec. 43. All laws and parts of laws in conflict herewith are hereby repealed.

Sec. 44. The fact that many counties and districts of Texas are anxious to organize navigation districts for the improvement of rivers, creeks, bays and streams, and the construction and maintenance of canals and waterways and there is now no law under which such districts can be properly formed, constitutes an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days be suspended, and also that this act take effect from and after its passage, and it is so enacted.

(2)

Amend the caption by striking out all after the words, "A bill to be entitled," and insert in lieu thereof the following:

"An Act to authorize the formation, creation and establishment of navigation districts to improve rivers, bays, creeks and streams, to construct and maintain canals and waterways, to permit of navigation or in aid thereof by the commissioners court of the several counties in this or by navigation boards; to provide for the creation and organization of navigation boards where a city or cities, or part or parts thereof, acting under special charter are included within the limits and boundaries of said navigation districts and defining the powers of such navigation boards; authorizing the ordering and holding of elections for the purpose of voting on the establishment of such districts and authorizing the issuance of bonds and levy of tax, and the issuance of bonds in payment for such improvements and the maintenance thereof and the levying and collecting of taxes for the payment of such bonds and interest and sinking funds thereon; the appointment of navigation and canal commissioners of such navigation districts for the purpose of carrying into

effect the provisions of this act; granting the right of eminent domain to such navigation districts or navigation and canal commissioners and authorizing the navigation and canal commissioners to acquire by purchase, gift or grant for such district, title to any right of way and other property; authorizing the navigation and canal commissioners to employ engineers, assistant engineers and other employes and to employ counsel; to enter into contract for such improvements; to agree or co-operate with the government of the United States, the proper department or officer thereof for the carrying out of such improvements or the supervision of the same, and for all things necessary for the maintenance of such districts according to the provisions of this act; and providing for entering upon lands for surveys and for all the purposes of this act and prescribing penalties for violation of this act; repealing all laws and parts of laws in conflict herewith, and declaring an emergency."

The motion to non-concur in the amendments prevailed and a Free Conference Committee was granted.

#### FREE CONFERENCE COMMITTEE APPOINTED.

The Chair here announced the appointment of the following Free Conference Committee, on the above bill, Senate bill No. 43:

Senators Hume, Masterson, Peeler, Hudspeth and Kellie:

#### BILLS SIGNED.

The Chair (Lieutenant Governor Davidson) signed, in the presence of the Senate, after their captions had been read, the following bills:

Senate bill No. 35, "An Act to exempt the county of Val Verde from the provisions and operations of Articles 5002 to 5042, inclusive, of Chapter 6, Title 102, of the Revised Statutes of 1895, relating to the inspection of hides and animals, and repealing all laws in conflict therewith and declaring an emergency."

House bill No. 171, "An Act to amend an act passed at the Regular Session of the Twenty-ninth Legislature of the State of Texas, Chapter 56, entitled 'An Act to create a more efficient road law for Tyler county.'"

House bill No. 83, "An Act creating

a more efficient road system for Anderson county, Texas; prescribing the powers and duties of the county commissioners court with reference to public roads; making members of the commissioners court ex-officio road superintendents of their respective precincts, and defining and prescribing their powers and duties as such; prescribing the powers and duties of road overseers; designating who are liable to road service, and prescribing their duties and privileges; prescribing penalties for the violation of the provisions of this act; providing that this act be cumulative of all laws on the subject of public roads and bridges; and that it be taken notice of by the courts as other general laws of the State; repealing all laws in conflict, and declaring an emergency."

House bill No. 57, "An Act to restore to and confer upon the county court of Shelby county the civil and criminal jurisdiction heretofore belonging to said court under the Constitution and General Laws of this State, and to conform the jurisdiction of the district court of said county to such change, and to give said county court concurrent jurisdiction with justices of the peace and other inferior courts of said county, and to repeal all laws and parts of laws in conflict with this act."

#### SENATE BILL NO. 51.

On motion of Senator Alexander, the pending order of business (Senate bill No. 156) was suspended, and the Senate took up, out of its order, Senate bill No. 51, by the following vote:

Yeas—27.

Adams.	Peeler.
Alexander.	Perkins.
Brachfield.	Real.
Bryan.	Senter.
Cofer.	Stokes.
Greer.	Sturgeon.
Harper.	Terrell of Bowie.
Hayter.	Terrell of McLennan.
Holsey.	Veale.
Hudspeth.	Ward.
Hume.	Watson.
Kellie.	Weinert.
Masterson.	Willacy.
Paulus.	

Nays—1.

Mayfield.

Absent.

Meachum.  
Murray.

Thomas.

The Chair laid before the Senate, on second reading,

Senate bill No. 51, A bill to be entitled "An Act to provide for the revising, digesting and publishing the laws, civil and criminal, of the State of Texas, making an appropriation therefor, and declaring an emergency."

Senator Alexander offered the following amendment, which was read and adopted:

Amend the bill by adding after the word "report," in line 20, page 2, Section 5, the following: "They shall be authorized and empowered to employ any person, firm or corporation to annotate, digest and properly index said statutes when so revised, and the Comptroller of the State is hereby authorized to issue warrants upon the State Treasurer in payment for any work so done under their direction upon vouchers certified to by said commissioners." Also substitute for word "they," in said line 20, page 2, the words, "said commissioners."

ALEXANDER,  
SENTER.

Senator Alexander offered the following amendment, which was read and adopted:

Amend the bill by inserting the word "annotating," after the word "digesting," in the first line of the caption.

ALEXANDER,  
SENTER.

Senator Alexander offered the following amendment, which was read and adopted:

Amend the bill by adding after the words "Civil Statutes," in Section 4, line 9, page 2, the words, "and the State Constitution as adopted and amended, annotated and digested."

ALEXANDER,  
SENTER.

Senator Alexander offered the following amendment, which was read and adopted:

Amend the bill Section 2, page 1, line 21, by adding after the words "typographical errors," the words, "or to improve the verbiage or make clear the meaning of the text."

ALEXANDER,  
SENTER.

Senator Alexander offered the following amendment, which was read and adopted:

Amend the bill by striking out the words "their present," in line 18, Sec-

tion 2, page 1, and inserting the words "an appropriate."

ALEXANDER,  
SENTER.

Senator Alexander offered the following amendment, which was read and adopted:

Amend the bill by inserting after the word "indexed," in line 11, Section 4, page 2, the words "annotated and digested."

ALEXANDER,  
SENTER.

Senator Alexander offered the following amendment, which was read and adopted:

Amend the bill, Section 3, page 2, line 6, by adding after the word "separately," the words "annotated and."

ALEXANDER,  
SENTER.

Senator Alexander offered the following amendment, which was read and adopted:

Amendment the bill, Section 3, lines 28 and 29, page 1, by substituting the word "appropriated" for the words "their proper."

ALEXANDER,  
SENTER.

Senator Alexander offered the following amendment, which was read and adopted:

Amend the bill, line 21, Section 2, page 1, by adding the words "or arrangement," after the words "present numbering."

ALEXANDER,  
SENTER.

Senator Alexander offered the following amendment, which was read and adopted:

Amend the bill, Section 5, page 2, line 22, by striking out the words "not to exceed one year."

ALEXANDER,  
SENTER.

Senator Alexander offered the following amendment, which was read and adopted:

Amend the bill by striking out the word "twelve," in line 1, page 3, and inserting the word "fifteen."

ALEXANDER,  
SENTER.

Senator Terrell of Bowie offered the following amendment, which was read and adopted:

Amend the bill, page 1, line 10, by

adding after the word "Governor," the following: "Chief Justice of the Supreme Court and the Presiding Justice of the Court of Criminal Appeals of Texas."

WATSON,  
TERRELL of Bowie.

Senator Cofer offered the following amendment, which was read and adopted:

Amend Section 1, line 2, page 1, by adding after the word "law," the clause: "And who shall have been active practitioners of the law in Texas for the past five years."

COFER,  
PEELER.

Bill read second time, and ordered engrossed.

On motion of Senator Alexander, the constitutional rule requiring bills to be read on three several days was suspended, and the bill put on its third reading and final passage by the following vote:

Yeas—26.

Adams.	Mayfield.
Alexander.	Paulus.
Brachfield.	Peeler.
Bryan.	Perkins.
Cofer.	Real.
Greer.	Senter.
Harper.	Sturgeon.
Hayter.	Terrell of Bowie.
Holsey.	Terrell of McLennan.
Hudspeth.	Veale.
Hume.	Ward.
Kellie.	Weinert.
Masterson.	Willacy.

Absent.

Meachum.	Thomas.
Murray.	Watson.
Stokes.	

The bill was read third time, and passed by the following vote:

Yeas—24.

Adams.	Paulus.
Alexander.	Peeler.
Bryan.	Perkins.
Greer.	Real.
Harper.	Senter.
Hayter.	Stokes.
Holsey.	Sturgeon.
Hudspeth.	Terrell of McLennan.
Hume.	Veale.
Kellie.	Ward.
Masterson.	Watson.
Mayfield.	Willacy.

Absent.

Brachfield.	Terrell of Bowie.
Cofer.	Thomas.
Meachum.	Weinert.
Murray.	

Senator Alexander moved to reconsider the vote by which the bill was passed, and lay that motion on the table.

The motion to table prevailed.

#### SENATE BILL NO. 19—MADE SPECIAL ORDER.

Senate bill No. 156, being unfinished business, the Chair laid same before the Senate, and

On motion of Senator Bryan, the unfinished order of business (Senate bill No. 156) was suspended, and the Senate took up, out of its order, Senate bill No. 19, by the following vote:

Yeas—28.

Adams.	Paulus.
Alexander.	Peeler.
Brachfield.	Perkins.
Bryan.	Real.
Cofer.	Senter.
Greer.	Stokes.
Harper.	Sturgeon.
Hayter.	Terrell of Bowie.
Holsey.	Terrell of McLennan.
Hudspeth.	Veale.
Hume.	Ward.
Kellie.	Watson.
Masterson.	Weinert.
Mayfield.	Willacy.

Absent.

Meachum.	Thomas.
Murray.	

The Chair laid before the Senate, on second reading,

Senate bill No. 19, A bill to be entitled "An Act to provide for the location and establishment of a factory for the manufacture of cotton bagging, cotton sacks and cotton twine by a board of management of the State penitentiary, for the employment of managing experts and of certain State convicts in the operation of said factory, and to make an appropriation therefor."

Senator Bryan moved that this bill be made a special order for consideration immediately after the consideration of Senate bill No. 156 has been concluded, said bill being the unfinished business.

The motion prevailed.



## SENATE BILL NO. 156.

The Chair laid before the Senate, on second reading and unfinished business,

Senate bill No. 156, A bill to be entitled "An Act to provide for the establishment and maintenance of an agricultural experiment station to be located in the Twenty-eighth Senatorial District, composed of Bosque, Coryell, Hamilton and Bell counties, and making the necessary appropriation therefor."

The question on the bill was on the pending amendment by Senator Adams, and after some discussion he withdrew same.

(Senator Hume in the chair.)

Senator Holsey offered the following substitute for the bill:

Strike out all below the words: "A bill to be entitled," and substitute the following:

An Act providing for the establishment of five additional experimental stations for the purpose of conducting experiments in agriculture, horticulture and forestry.

Be it enacted by the Legislature of the State of Texas:

Section 1. That as soon as possible after the taking effect of this act, the board of directors of the Agricultural and Mechanical College are directed and empowered to immediately locate and establish five additional experimental stations for carrying on experiments in agriculture, horticulture and forestry, which stations shall be located as follows: One in the Panhandle of Texas, one in what is known as the "black land belt," one in the "sandy belt" of East Texas, one in Central West Texas and one in West Texas; said stations to be located for the best interest of these sections of the State; provided further, that said board may take into consideration any donation of land offered to the State for the use of said stations which is given for the purpose of securing their location.

Sec. 2. Said experiment stations shall be conducted and operated under the direction and supervision of the board of directors of the Agricultural and Mechanical College in the same manner as the other experimental stations are conducted.

Sec. 3. To pay the expenses of the board of directors in locating said experimental stations, and to pay for purchasing necessary land and erecting necessary improvements thereon to carry

out the purpose of this act, there is hereby appropriated out of the State Treasury, the sum of twenty-five thousand dollars (\$25,000), or so much thereof as may be necessary.

HOLSEY,  
ADAMS,  
VEALE,  
PAULUS,  
KELLIE,  
GREER,  
HARPER,  
ALEXANDER,  
TERRELL of McLennan,  
WARD,  
SENER,  
WEINERT.

Pending.

## SENATE BILL NO. 57—HOUSE AMENDMENTS CONCURRED IN.

Senator Alexander called up, as a privilege matter,

Senate bill No. 57, A bill to be entitled "An Act putting into effect the constitutional amendment adopted by the people at the last general election, relating to public schools, by amending Sections 50, 57, 58, 59, 60, 61, 63, 65, 66, 76, 77, 78, 80, 81 and 154, and adding 154a of Chapter 124 of the Acts of the Regular Session of the Twenty-ninth Legislature, relating to school districts and school funds, repealing all laws and parts of laws in conflict herewith, and declaring an emergency,"

And moved that the Senate concur in the following House amendments:

Amend Section 154, page 6, lines 13 and 14, so as to read: "Trustees of incorporated districts that have been or may hereafter be incorporated under general or special laws, for school purposes only, shall have."

Amend Senate bill No. 57, on page 1, Section 50, line 36, after the word "districts," by adding the following: "Provided, the county commissioners court may reduce the area of any common school district and create such additional school districts as may be necessary for the best interests of the school children; provided, that no school districts shall be reduced to contain less than nine square miles of territory, and no new district shall hereafter be created, having a less area than nine square miles; and provided further, that the area of school districts having an outstanding bonded indebtedness shall never be reduced until after such bonded indebtedness shall have been fully discharged."

Amend Section 154a, page 7, lines 1, 2 and 3, so as to read: "Relating to incorporated school districts, and all provisions of any and all such special acts in conflict with the general laws are hereby specifically repealed, except in so far as those acts relate to the boundaries established by the acts incorporating such districts. All incorporated districts having each fewer than 150 scholastics according to," etc.

Amend Section 57, page 2, line 13, by striking out the word "all," and all following words in said section.

Amend Senate bill No. 57, after the word "par," in line 9, page 6, Section 86, strike out the remainder of the section.

Amend lines 10 and 11, page 7, so as to read: "Be construed to mean the county depository, and in incorporated districts of more than 150 scholastics, whether they be cities which have," etc.

Amend lines 9 and 10, page 4, by striking out the figure "1" and the words "per centum," and insert in lieu thereof " $\frac{1}{2}$  of 1 per cent."

Amend Senate bill No. 57, page 6, by adding after the word "par," in line 9, the following: "It shall be the duty of the State Superintendent of Public Instruction to prepare as many as three sets of plans for public school buildings, the said plans being designed to meet the needs of rural schools of various sizes, and upon request of the trustees of any school district shall furnish copies of such plans and specifications."

The motion to concur prevailed by the following vote:

Yeas—26.

Adams.	Perkins.
Alexander.	Real.
Brachfield.	Senter.
Bryan.	Stokes.
Greer.	Sturgeon.
Harper.	Terrell of Bowie.
Hayter.	Terrell of McLennan.
Holsey.	Thomas.
Hume.	Veale.
Kellie.	Ward.
Masterson.	Watson.
Mayfield.	Weinert.
Peeler.	Willacy.

Absent.

Cofer.	Murray.
Hudspeth.	Paulus.
Meachum.	

Senator Alexander moved to reconsider the vote by which the amendments

were concurred in, and lay that motion on the table.

The motion to table prevailed.

## SENATE BILL NO. 156.

Action here recurred on Senate bill No. 156, the question being on the substitute bill by Senator Holsey.

## ADJOURNMENT.

On motion of Senator Weinert, the Senate, at 1 o'clock p. m., adjourned until 10 o'clock Monday morning.

## APPENDIX.

### COMMITTEE REPORTS.

(Floor Report.)

Austin, Texas, February 12, 1909.

Hon. A. B. Davidson, President of the Senate.

Sir: Your Committee on Constitutional Amendments, to whom was referred

Senate Joint Resolution No. 7, To amend Section 51 of Article 3 of the Constitution of the State of Texas, as amended in 1903, so as to authorize the grant of aid in the establishment and maintenance of a home for the disabled and dependent wives and widows of Confederate soldiers and sailors and such women as aided the Confederacy, and making an appropriation,

Have had the same under consideration, and beg leave to report it back to the Senate with the recommendation that it do pass.

Veale, Cofer, Perkins, Masterson, Watson, Stokes, Brachfield, Weinert, Thomas.

(Floor Report.)

Austin, Texas, February 12, 1909.

Hon. A. B. Davidson, President of the Senate.

Sir: Your Committee on Internal Improvements, to whom was referred

Senate bill No. 187, A bill to be entitled "An Act to ratify, approve and confirm a certain contract of lease between county of Galveston of the first part, Gulf, Colorado & Santa Fe Railroad Company; Galveston; Houston & Henderson Railroad Company; Galveston, Harrisburg & San Antonio Railroad Company of the second part, and Galveston & Houston Electric Railway

Company of the third part, relating to the causeway and a certain memoranda of agreement executed by Galveston county, Gulf, Colorado & Santa Fe Railroad Company; Galveston, Houston & Henderson Railroad Company and the Galveston, Harrisburg and San Antonio Railroad Company, construing Articles 17 and 21 of said contract of lease, and to amend Section 8, of an act approved March 16, 1907 entitled 'An Act to authorize Galveston county to build and own the combination roadway and bridge from mainland to Galveston Island across Galveston Bay, to connect as part of the roadways of the county on the island and mainland and the county to issue bonds for same on taxation; also establish three-mile limit and condemnation proceedings, and providing for the right of way; also to authorize all corporations contracting for right of way upon or use of said structure to issue and sell bonds therefor under the regulation and authority of the Railroad Commission; and to lease and authorize corporations and the city of Galveston to lease right of easement of user of portion of said structure from such county on terms provided by this act and agreed on with the county commissioners court, with an emergency clause,'"

Have had the same under consideration, and beg leave to report it back to the Senate with the recommendation that it do pass, but be not printed.

Brachfield, Hume, Masterson, Perkins, Terrell of McLennan, Holsey, Senter, Bryan, Mayfield.

(Majority Report.)

Committee Room,

Austin, Texas, February 10, 1909.

Hon. A. B. Davidson, President of the Senate.

Sir: Your Committee on Insurance and Banking, to whom was referred

Senate bill No. 24, A bill to be entitled "An Act to create a State banking board, to define its powers and duties; to provide for a depositors' guarantee fund under the supervision of said board, and fixing the conditions and terms by which banks and trust companies may avail their depositors of the benefit of said fund; fixing the amounts to be paid for the creation of said fund and the manner and time of payments; fixing the manner of management and administration of said fund; authorizing certain advertising privileges to such banks, pro-

viding for a penalty for the unauthorized use of such advertising privileges, and declaring an emergency,"

Have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass.

HUDSPETH, Chairman.

(Minority Report.)

Committee Room,

Austin, Texas, February 10, 1909.

Hon. A. B. Davidson, President of the Senate.

Sir: We, the undersigned minority members of your Committee on Insurance and Banking, to whom was referred

Senate bill No. 24, A bill to be entitled "An Act to create a State banking board, to define its powers and duties; to provide for a depositors' guarantee fund under the supervision of said board, and fixing the condition and terms by which banks and trust companies may avail their depositors of the benefit of said fund; fixing the amounts to be paid for the creation of said fund and the manner and time of payments; fixing the manner of management and administration of said fund; authorizing certain advertising privileges to such banks, providing for a penalty for the unauthorized use of such advertising privileges, and declaring an emergency,"

Have had the same under consideration, and beg leave to report it back to the Senate with the recommendation that it do not pass.

HUDSPETH,  
WATSON,  
SENER.

(Majority Report.)

Committee Room,

Austin, Texas, February 5, 1909.

Hon. A. B. Davidson, President of the Senate.

Sir: Your Judiciary Committee No. 2, to whom was referred

Senate bill No. 102, A bill to be entitled "An Act to regulate, limit and fix the fees and salaries to be paid to the clerks of the district courts, county judges, county attorneys, clerks of the county courts, collectors of taxes, assessors of taxes, sheriffs, county treasurers, justices of the peace and constables, and combining the offices of clerk of the district court and clerk of the county court in certain counties, and combining the offices of collector of taxes and

assessor of taxes in certain counties, and to provide for the keeping and maintenance of county prisoners and to create the office of jailer, and providing for reports to be made by each of such officers, and for the publication of the same and prescribing penalties for the violation of the provisions hereof, and to repeal all laws in conflict herewith,"

Have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do not pass.

HUDSPETH, Chairman.

(Minority Report.)

Committee Room,

Austin, Texas February 5, 1909.

Hon. A. B. Davidson, President of the Senate.

Sir: We, a minority of your Judiciary Committee No. 2, to whom was referred

Senate bill No. 102, A bill to be entitled "An Act to regulate, limit and fix the fees and salaries to be paid to the clerks of the district courts, county judges, county attorneys, clerks of the county courts, collectors of taxes, assessors of taxes, sheriffs, county treasurers, justices of the peace and constables, and combining the offices of clerk of the district court and clerk of the county court in certain counties, and combining the offices of collector of taxes and assessor of taxes in certain counties, and to provide for the keeping and maintenance of county prisoners, and to create the office of jailer, and providing for reports to be made by each of such officers and for the publication of the same, and prescribing penalties for the violation of the provisions hereof, and to repeal all laws in conflict herewith,"

Have had the same under consideration, and beg leave to report it back to the Senate with the recommendation that it do not pass, but that the following substitute do pass in lieu thereof:

#### A BILL

To be entitled

An Act to regulate, limit and fix the fees, perquisites and compensation to be paid to the clerks of the district courts, district attorneys, county judges, county attorneys, clerks of the county courts, collectors of taxes, assessors of taxes, sheriffs, justices of the peace and constables, and providing for reports to be made by each

of such officers and for the publication of the same, and prescribing penalties for the violation of the provisions hereof, and to repeal all laws in conflict herewith.

Be it enacted by the Legislature of the State of Texas:

Section 1. Hereafter the maximum amount of fees of all kinds that may be retained by any officer mentioned in this article as compensation for services shall be as follows:

Sheriff—An amount not exceeding \$2000 per annum.

County Judge—An amount not exceeding \$2000 per annum.

Clerks of the County Court—An amount not exceeding \$2000 per annum.

County Attorney—An amount not exceeding \$2000 per annum.

District Attorney—An amount not exceeding \$2500 per annum, inclusive of the \$500 allowed by the Constitution and paid by the State.

Clerk of the District Court—An amount not exceeding \$2000 per annum.

Collector of Taxes—An amount not exceeding \$2000 per annum.

Assessor of Taxes—An amount not exceeding \$2000 per annum.

Justices of the Peace—An amount not exceeding \$1500 per annum.

Constables—An amount not exceeding \$1200 per annum.

Provided, that this act shall not apply to justices of the peace and constables, except those holding office in cities of more than 15,000 inhabitants, to be determined by the next preceding Federal census.

Sec. 2. In counties which may contain 25,000 inhabitants, and not exceeding 40,000 inhabitants, as may be shown by the Federal census to be taken in 1910, the following amount shall be allowed, to wit:

Sheriff—An amount not exceeding \$2250 per annum.

County Judge—An amount not exceeding \$2250 per annum.

Clerk of the County Court—An amount not exceeding \$2250 per annum.

County Attorney—An amount not exceeding \$2250 per annum.

District Attorney—An amount not exceeding \$2500 per annum, inclusive of the \$500 allowed by the Constitution and paid by the State.

Clerks of the District Court—An amount not exceeding \$2250 per annum.

Collector of Taxes—An amount not exceeding \$2250 per annum.

Assessor of Taxes—An amount not exceeding \$2250 per annum.

Sec. 3. In counties which may contain a population exceeding 40,000 and less than 75,000, as may be shown by Federal census to be taken in 1910, the following amount of fees, perquisites and compensation may be allowed as maximum sums allowable, inclusive of compensation of every kind and nature whatsoever, to wit:

Sheriff—An amount not exceeding \$3000 per annum.

County Judge—An amount not exceeding \$2500 per annum.

Clerk of the County Court—An amount not exceeding \$2500 per annum.

County Attorney—An amount not exceeding \$3000 per annum.

District Attorney—An amount not exceeding \$2500 per annum, inclusive of the \$500 allowed by the Constitution and paid by the State.

Clerk of the District Court—An amount not exceeding \$2500 per annum.

Collector of Texas—An amount not exceeding \$2500 per annum.

Assessor of Taxes—An amount not exceeding \$2500 per annum.

Sec. 4. In counties which may contain a population in excess of 75,000, as may be shown by the Federal census to be taken in 1910, the following maximum amounts of fees, perquisites and compensation which may be allowed, exclusive of the compensation of every kind and character to be as follows, to wit:

Sheriff—An amount not exceeding \$3000 per annum.

County Judge—An amount not exceeding \$2750 per annum.

Clerk of the County Court—An amount not exceeding \$2500 per annum.

County Attorney—An amount not exceeding \$3000 per annum.

District Attorney—An amount not exceeding \$3000 per annum, inclusive of the \$500 allowed by the Constitution and paid by the State.

Collector of Taxes—An amount not exceeding \$2500 per annum.

Assessor of Taxes—An amount not exceeding \$2500 per annum.

Sec. 5. The amounts allowed to each officer mentioned in this act may be retained out of the fees collected by him under existing laws, but in no case shall the State or the county be responsible for the payment of any sum when the fees collected by any officer

are less than the maximum compensation allowable under the provisions of this act, or be responsible for the pay of any deputy or assistant.

Sec. 6. Whenever any officer named in this act shall require the services of a deputy or assistants, one or more, in the performance of his official duties, he shall apply to the commissioners court of his county for authority to appoint the same, and after hearing such application the court shall enter an order authorizing the appointment by such officer of such a number of deputies or assistants as in the opinion of the court may be necessary for the efficient performance of the duties appertaining to said office.

The maximum amounts which may be allowed by the court to be paid such deputies or assistants for their services shall be as follows:

First assistant, or chief deputy, a sum not to exceed \$1200 per annum.

Any other deputy or assistant, a sum not to exceed \$900 per annum.

Provided, that in any county which may contain a town or city with a population of 15,000 or over, as may be shown by the Federal census of 1910, the first assistant county attorney may be paid, at the discretion of the commissioners court, a sum not exceeding \$1500 per annum.

The commissioners court in granting the authority to appoint deputies, or assistants, shall state in such order the number of deputies or assistants authorized and the amount to be paid each and the amount of such compensation shall be paid out of the fees accruing under the administration of such office, and shall not affect the maximum compensation payable to the officers mentioned in this act.

Sec. 7. All fees of office accruing to the officers herein named under the provisions of any act or payable to them in their capacity as such officers for any service whatsoever performed by them in an official capacity, or performed under any contract whatsoever with the State or county or with the commissioners court, except fees which may be paid to them by the State of Texas, in excess of the maximum compensation herein allowed shall be and become the property of the county; provided, the county judge may be allowed an ex-officio salary, but shall not receive in any year compensation in excess of the maximum herein named, including such ex-officio salary, if any shall be allowed.

The fees, perquisites, commissions and compensation that may be paid by the State to the officers herein mentioned shall be included in the maximum amounts payable to such officers under the provisions of this act. In the event the total amount received from the State by any officer herein mentioned during any one year or part of year as designated herein shall exceed the maximum sum which may be collected and retained by such officer under the provisions of this act, the excess shall be paid over by him to the State Treasurer and applied to the general revenue. In all other cases in which the total amount received and collected by any officer herein mentioned, including any amounts that may be received by him from the State, and which shall be paid to him during any one year or part of year as designated herein, shall exceed the maximum sum that may be collected and retained by such officer during such period under the provisions of this act, the amount of the excess shall be paid over by such officer to the county treasurer to be applied to the general revenue fund of the county.

The annual compensation provided for shall be based upon the services beginning with the first day of December of each year, and ending with the corresponding period of the succeeding year, and in the event any officer named shall die, resign or be removed from office, he and his successor or successors in such office shall be paid ratably for the services rendered by them in proportion to the time served, which shall be determined by the commissioners court, whose order with respect thereto shall be conclusive.

Not later than the 15th day of December of each year, or within fifteen days after the expiration of his term of office or his resignation or removal, each officer named herein shall submit to the commissioners court an itemized statement of all fees, perquisites, commissions and receipts by him from any source whatsoever, including any fees, perquisites or commissions paid him by the State of Texas during the preceding year fixed by the terms hereof, or any part thereof, which may represent his service within such year and shall transmit one copy of said report to the county clerk who shall make a report in a well-bound book kept for that purpose.

Said report shall be carefully examined by the commissioners court as soon as practicable after it shall receive the

same and shall be approved or disapproved by the court by an order duly entered in its records.

The officers making such report shall, immediately after the same shall have been acted upon by the commissioners court, pay over to the treasurer of the county any sum or sums which may appear due the county from such officer under the provisions of this act. In the event he shall fail so to do, the commissioners court shall at once cause suit to be instituted against such officer and his bondsmen to recover such amount.

The maximum annual compensation payable to each officer named herein shall be paid out of the receipts of the office during the year for which such compensation is payable. All fees which may be delinquent upon the first day of December of each year shall be collectible by the person holding the office for the succeeding year, and when collected shall be considered a part of the compensation payable under the provisions of this act for such year.

Sec. 8. No ex-officio fees of any kind or character shall be payable to any officer named in this act except in counties where the county judge may act as superintendent of public instruction, in which event, he may receive ex-officio a salary for such service which shall not, however, in any case increase the maximum amount of salary payable to such officer under the provisions of this act.

Sec. 9. It shall not be legal for any officer to remit any fee that may be due under the law fixing fees or to defer the collection of the sum beyond the time fixed by law for the payment thereof.

Any officer named herein, who shall fail to charge up the fees or costs that may be due under existing laws or who shall remit any fee that may be due under the existing laws, or who shall fail to make report required under the provisions of this act, or who shall pay any deputy or assistant a less sum than the amount provided for herein, or who shall receive back from any deputy or assistant any part of the compensation allowed such deputy or assistant as a rebate, shall be deemed guilty of a misdemeanor and on conviction thereof shall be fined in any sum not less than \$250 nor more than \$500. Each act forbidden in this section shall constitute a separate offense.

Sec. 10. It shall be the duty of the officer named herein to keep a correct

and full itemized statement of the sums received by them as fees, perquisites, or commissions or from any contract with the State or county in a book to be provided for that purpose. It shall be the duty of the grand jury (and the district judge shall so charge the grand jury) to examine these accounts at the session of the district court next succeeding the first day of December of each year, and to make a report upon the same to the district court at the conclusion of such session.

The commissioners court shall have authority to make provisions for the purchase of office furniture, stationery and other office supplies, necessary for the use of any officer herein mentioned, to be paid for out of the general revenue of the county.

Sec. 11. In the event it may be necessary for the enforcement of law, or to aid in the apprehension of any person charged with crime, for the sheriff to incur special expense, which is paid by him and not otherwise provided for, the judge of the court which would have jurisdiction of the offense charged, shall be empowered to approve the account of the sheriff for such expense, which account shall be itemized and sworn to by the officer incurring the expense, and the judge shall, if he finds the accounts correct, allow the same and certify his approval thereof, to the commissioners court, and, in such event, such sum or sums, when actually paid out by the sheriff, may be retained by him out of his fees of office, in addition to the compensation allowed by the provisions of this act, provided that in no case shall the county be responsible for such expenditure.

Sec. 12. The commissioners court shall make and cause to be published in a newspaper published in the county not later than the first day of January of each year, an itemized statement of the receipts, disbursements and expenditure of every kind and character of each officer named herein, which statement shall contain a summary of the reports made by each of such officers for the preceding year, and shall certify to the results of its examination of such report.

Sec. 13. All officers affected by the provisions of this act shall receive the fees, perquisites and compensation now provided by law until the first day of December, 1910, from which date, this act shall take effect and be in force.

Sec. 14. All laws and parts of laws in conflict herewith are hereby repealed.  
STURGEON,  
SENTER.

Committee Room,  
Austin, Texas, February 11, 1909.

Hon. A. B. Davidson, President of the Senate.

Sir: Your Committee on Towns and City Corporations, to whom was referred Senate bill No. 141, A bill to be entitled "An Act to prohibit corporations in incorporated cities and towns furnishing water, electricity, gas and telephone service to citizens of such cities from discontinuing same without notice, and prescribing conditions under which they may discontinue same where controversy arises from charges of such corporation, and prescribing penalties for violating the provisions of this act, and declaring an emergency,"

Have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do not pass, but that the following substitute in lieu thereof do pass:

#### A BILL

To be entitled

An Act to prohibit corporations in incorporated cities and towns furnishing water, electricity and gas service to citizens of such cities from discontinuing same without notice, and prescribing conditions under which they may discontinue same where controversy arises from charges of such corporations, and prescribing penalties for violating the provisions of this act, and declaring an emergency.

Be it enacted by the Legislature of the State of Texas:

Section 1. It shall hereafter be unlawful for any corporation in any incorporated city or town in this State, furnishing and supplying any water, electricity or gas service to the citizens of such city or town, for which charges are made, to discontinue the furnishing of such commodity or service for any purpose without first notifying the citizens to whom such commodity service is supplied, that such will be done, and after such notice, such discontinuance shall only take place upon said corporation complying with all the provisions of this act.

Sec. 2. That the city council of each incorporated city or town in this State,

which has a city engineer, city electrician, or a city inspector of weights and measures, shall appoint one of such officers inspector of gas, electric and water meters, and in any incorporated city which has no city engineer, city electrician or city inspector of weights and measures, the city council of such city shall appoint the city marshal as inspector of gas, electric and water meters, and that when in any city or town where such inspector is appointed, any consumer of gas, electricity or water believes that the meter through which gas, water or electricity is supplied to him, is incorrect for any reason, he may make application to said meter inspector for an inspection of said meter, and at the same time he shall deposit with the said inspector the sum of \$1.00, for which he shall receive a receipt from said inspector, at the same time leaving with said inspector the address of the place where said meter is located, whereupon it shall be the duty of said meter inspector immediately to notify the person, firm or corporation owning said meter and supplying said gas, water or electricity to disconnect the same and move it, under the direction of said inspector. The said inspector shall fix the time within which said meter shall be disconnected and moved, which time shall not exceed forty-eight hours from the forwarding of said notice. Said inspector shall be present at the disconnecting of said meter, and he shall in all cases require a meter to be placed by said person, firm or corporation for the use of the consumer during the time he is inspecting and testing the meter complained of, in order that the service may not be interrupted. It shall be the duty of said inspector to test said meter complained of within forty-eight hours after its receipt, and if said meter is found by him to be more than 3 per cent fast, he shall report the same to the person, firm or corporation owning said meter as well as send a copy of said report to the consumer complaining of said meter; and said report of said inspector to said consumer shall state the amount of overcharges that are charged against him by said corporation on account of said meter being too fast, which statement shall only include the overcharges in the bill rendered by such company over which the controversy has arisen, and, upon presentation of said receipt, he shall refund the deposit of \$1.00 to said consumer. Thereupon it shall be the duty of said inspector to charge against the person,

firm or corporation owning said inaccurate and incorrect meter, the sum of \$1.00, to be paid by such person, firm or corporation within forty-eight hours from the receipt of said notice. That if the meter complained of is found to be correct or slow, it shall be the duty of said inspector to immediately notify the complaining consumer of such fact, as well as to send a copy of such notice to the person, firm or corporation owning said meter, and the \$1.00 so deposited by said complaining consumer shall not be refunded, but shall be retained by said inspector as pay for his services in making such test. A representative of each party shall be allowed to be present at the testing of said meter, if desired; provided, that when any such inspector shall inspect or test any such meter used for measuring water, gas or electricity, such corporation furnishing such commodity and concerning whom the complaint is made, shall furnish such inspector all provers, testers, connections, instruments and mechanical devices of any character whatever, necessary for the correct inspection and proving of such meters, without cost to such inspector or to any consumer.

Sec. 3. It is hereby declared to be unlawful for any person, firm or corporation described in Sections 1, 2 and 4 of this bill to discontinue the furnishing of any water, gas or electricity to any citizen where any controversy has arisen as to the amount of charges arising over the amount of such commodity furnished, until such test has been made by said inspector as provided in Section 2, and such inspector after having made such test and determined the amount of charges according to such test that should be collected and notified such consumer as provided in Section 2, after five (5) days from the receipt of such notice, if such consumer fails to pay such bill, then, in that event, such person, firm or corporation shall have the right to discontinue the furnishing of said commodity. It is further declared unlawful for any person, firm or corporation furnishing any water, gas or electricity to any consumer to discontinue the service of same without giving such person notice by sending a representative to their residence or place where such commodity is delivered or the place of business of such consumer for the purpose of collecting same.

Sec. 4. Any person, firm or corporation in any incorporated city or town in this State furnishing to any citizen



of such city or town any gas, water or electricity service, violating any of the provisions of Sections 1, 2, and 3 of this act, shall be subject to a penalty of \$50 for each violation, to be recovered by and become the property of such incorporated city or town.

Sec. 5. Suits for penalties under this act shall be brought in the county where such city or town is located.

Sec. 6. The fact that there is now no law regulating the matters covered by the provisions of this act, creates an emergency and an imperative public necessity, demanding that the constitutional rule requiring that bills shall be read on three several days, shall be suspended, and that this act take effect from and after its passage, and it is so enacted.

SENTER, Chairman.

(Majority Report.)

Committee Room,

Austin, Texas, February 11, 1909.

Hon. A. B. Davidson, President of the Senate.

Sir: Your Committee on Towns and City Corporations to whom was referred

Senate bill No. 151, A bill to be entitled "An Act to authorize the city council of all cities and towns incorporated under the general laws of this State to regulate the charges and fix the rates to be charged by all water companies, or persons engaged in supplying water, gas and light to the public within the limits of said cities or towns, and occupying the streets and other public places for that purpose, and to prescribe reasonable rules and regulations therefor, and to protect said companies and corporations or persons from imposition."

Have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do not pass.

SENTER, Chairman.

(Minority Report.)

Committee Room,

Austin, Texas, February 11, 1909.

Hon. A. B. Davidson, President of the Senate.

Sir: I, a minority of your Committee on Towns and City Corporations, to whom was referred

Senate bill No. 151, A bill to be entitled "An Act to authorize the city council of all cities and towns incorporated under the general laws of this State to regulate the charges and fix the rates

to be charged by all water companies, or persons engaged in supplying water, gas and light to the public within the limits of said cities or towns, and occupying the streets and other public places for that purpose, and to prescribe reasonable rules and regulations therefor, and to protect said companies and corporations or persons from imposition,"

Have had the same under consideration, and beg leave to report it back to the Senate with the recommendation that it do pass.

SENTER.

(Floor Report.)

Austin, Texas, February 12, 1909.

Hon. A. B. Davidson, President of the Senate.

Sir: We, the undersigned members of your Committee on Judicial Districts, to whom was referred

Senate bill No. 189, A bill to be entitled "An Act to create the county court of Tarrant county for civil cases, to fix and prescribe the jurisdiction thereof, and to conform to such change the jurisdiction of the county court of Tarrant county; fixing the salaries of the judges of the county court of Tarrant county and of the county court of Tarrant county for civil cases; providing for the appointment and election of the judges of said court hereby created; providing for the appointment of special judges and filling of said vacancies in said office, and declaring an emergency."

Have had the same under consideration, and beg leave to report same back to the Senate with the recommendation that it do pass, and be not printed.

Watson, Sturgeon, Paulus, Harper, Ward, Perkins, Willacy.

Committee Room,

Austin, Texas, February 12, 1909.

Hon. A. B. Davidson, President of the Senate.

Sir: Your Judiciary Committee No. 1, to whom was referred

Senate bill No. 157, A bill to be entitled "An Act to provide for the speedy and efficient enforcement of the liens of mechanics and artisans on the buildings, improvements and articles made or repaired by them," etc.,

Have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass.

BRACHFIELD, Acting Chairman.

## PETITIONS AND MEMORIALS.

By Senator Greer:

Petition signed by citizens of Wood county, favoring the establishment of an industrial college at Campbell, Hunt county.

By Senator Veale:

Whereas, There is now pending before the Legislature of the State of Texas, House bill No. 202, entitled "An Act to regulate and fix the passenger fare on all railroads in the State of Texas, and provide for the redemption of all tickets sold by said companies," etc., which bill seeks to reduce the passenger fare on all railroads in Texas to 2 cents per mile; and

Whereas, We know that the enactment of such legislation would result in great and permanent injury to Texas and her people; therefore, be it

Resolved by the Amarillo Chamber of Commerce, That we are unalterably opposed to any reduction in rates of passenger fares in Texas at this time, and assign the following reasons for such opposition:

1. Texas and particularly West and Northwest Texas needs and requires the construction of 10,000 miles more of railroad to give it the transportation facilities now enjoyed by the more densely populated sections of our State, and with the assurance that the present maximum passenger rate will be maintained, we believe we will realize within a few years the anticipated development of the limitless mineral and agricultural resources of this portion of our country through the co-operation of our railroads with the thousands of Texas citizens, who are expending liberally of their time and money in their efforts to interest outside capital in the further construction of railroads and the development of our matchless resources; and instead of the enactment of hostile and antagonistic legislation, such as is proposed by this bill, which would result in the complete abandonment of the plans and efforts to accomplish these ends, such laws should be enacted that would encourage the investment of capital in the extension of old lines and the construction of the thousands of miles of new lines now projected.

2. We are also opposed to a 2-cent fare for the reason that the railroads in the western and northwestern portion of this State conduct their passenger transportation, if not at an actual loss,

at least with little if any profit whatever, on the present rates, and in connection with the bi-monthly homeseekers' excursion rates, both local and from outside points, to this State, which are bringing thousands of people to Texas to make their homes and participate in its development, permits the movement of at least 90 per cent of the passenger travel in this portion of Texas at even less than 2 cents per mile, and the enactment of this law would result in the withdrawal of these low rates, to the permanent injury and detriment of the vast interests and capital involved in the efforts to colonize the now unpopulated empire of this portion of our great State.

3. We are opposed to the reduction of passenger fares in Texas at this time, for the further reason that the railroads would be deprived of the means of procuring the millions of capital needed by them to improve their roadbeds, tracks, motive power and equipment and the extension of old lines and the building of new ones. Whereas, on the contrary, with the assurance of the maintenance of the present passenger rate and fair and equitable legislation toward them, Texas would thereby invite millions of foreign cheap money for this and all other legitimate uses, which is refraining from investment in those of our sister States, who have enacted similar hostile measures to that proposed by this bill.

4. We believe further, that it is practically impossible, in view of the nature of the problem, and the many intricate questions requiring consideration and the multitude of duties imposed upon the Legislature for as equitable an adjustment of this and similar matters to be obtained as could be accomplished by and through the State Railroad Commission.

Which resolutions were unanimously adopted by the Amarillo Chamber of Commerce, at a meeting held in its offices in the city of Amarillo, Texas, on the 26th day of January, 1909.

Signed—H. B. Sanborn, President; Lon D. Marr, Secretary.

By Senator Adams:

To Hon. W. N. Adams, State Senator, Austin, Texas:

We, the undersigned citizens of Coleman county, Texas, respectfully solicit your support for the pending legislation commonly known as the "bank guarantee bill," believing that some just and

equitable law along that line will rebound to the best interests of the entire citizenship of the great State of Texas, and believing further, that your support of said legislation will carry out the wishes of a large majority of the voters of this section of the State.

Numerously signed.

By Senator Perkins:

Plano, Texas, February 5, 1909.

Hon. Tom W. Perkins, State Senator,  
Fifth District.

Dear Sir: We, the undersigned citizens of Plano, Collin county, Texas, hereby represent that we are opposed to gambling in any form or for any purpose. Therefore, we respectfully ask our Representatives and Senator to use their influence and cast their votes for the passage of the Mayfield-Meachum bill now before the Legislature.

Signed—A. M. Cant and 97 other citizens.

McKinney, Texas, February 9, 1909.

Senator Tom W. Perkins, Austin, Texas:

We, the undersigned citizens of your district, respectfully urge you to vote for and give your support to the passage of the Mayfield-Meachum bill, prohibiting pool selling, book making and wagering on horse races.

Signed—G. A. Dale and 28 other Collin county citizens.

Greenville, Texas, February 8, 1909.

Senator Tom W. Perkins, Austin, Texas.

Dear Sir: We, the undersigned citizens of Hunt county, believing that the Mayfield-Meachum bill, to prohibit race track gambling in Texas would do much for the moral betterment of the whole State, and especially to those parties contiguous to the Dallas Fair, and believing that the whole system of race track gambling is wholly demoralizing and hurtful in its tendency, respectfully request and urge you to lend your earnest efforts to the support of this or any similar legislation looking to the abatement or removal of this evil from our State. As part of your constituency we beg that you do your utmost to forward such legislation.

Signed—A. H. Horton and 63 others.

By Senator Ward:

Hillsboro, Texas, February 9, 1909.

To the Hon. Pierce B. Ward, Senator,  
Hill County, Texas.

Dear Sir: We, the undersigned citizens of Hill county, respectfully request

that you use your influence and cast your vote for the passage of House bill No. 15, requiring all railway companies in this State to make all repairs on their engines and other equipment in this State. The practice of railway companies doing business in this State of sending their equipment out of the State for repairs and depriving wage-earners who are taxpayers and citizens of this State of the benefit of wages derived in making these repairs is unfair, and further, it has been stated publicly that these out-of-State repairs are charged to expenses in Texas when the companies are sending their statement of expenses and earnings to the Railroad Commission, and while Texas bears the expenses her wage-earners get none of the benefit, all of which is inequitable and should be overruled by adequate laws.

We further request that you use your influence and cast your vote for House bill No. 127, requiring all railroad companies doing business in Texas to erect and maintain sheds over all repair tracks. The necessity of this is obvious. The wage-earner is endangered by being compelled to work on open tracks without protection other than the doubtful protection rendered by the erection of an ordinary flag, in some instances, and in many none to protect them, while sheds would be safer, not only against accidents, but also against the elements.

Numerously signed.

Waxahachie, Texas, Feb. 8, 1909.

Senator Pierce B. Ward, Austin, Texas.

Dear Sir: We, the undersigned citizens of Waxahachie, respectfully and earnestly urge you to vote for and give your support to the passage of the Mayfield-Meachum bill, prohibiting pool selling, book making and wagering on horse races, and accept no compromise that would weaken the force of the above-mentioned bill.

Numerously signed.

By Senator Terrell of McLennan:

Resolutions adopted at Marlin, Texas,  
by citizens of Falls county:

Whereas, Gambling in all forms, whether on card games, craps, horse races at fairs, is pernicious, tending to debauchery and crime; and

Whereas, Our civil Sunday is being largely ignored in the interest of traders, railroads and fairs; therefore, be it

Resolved by Marlin and Falls county people, in mass meeting assembled:

1. That we denounce gambling in connection with fairs and elsewhere as immoral and dangerous to society and the stability of government.

2. That we respectfully call upon our Representatives in particular, and the Texas Legislature as a whole, to enact a law that will put all gamblers out of business in Texas.

3. That we regard with horror the inroads being made upon our civil Sunday for purposes of money making and amusement, and affirm that unless our civil Sunday is maintained our American government can not stand. This is the voice of history which the wise will not ignore.

4. That we respectfully demand of our Legislature the enactment of a law, with adequate penalties, prohibiting the Sunday railroad excursions, the opening of fairs on Sunday, Sunday theaters and Sunday baseball and football games.

Signed—S. H. Johnson, Chairman; F. E. Hailey, Secretary.

By Senator Paulus:

We, the undersigned business men, taxpayers and citizens of the city of La Grange, Texas, respectfully urge that you use all honorable means in your power to secure such an amendment to the anti-pass law as will permit duly elected delegates of our State Firemen's Association the use of free transportation to and from our annual conventions. We not only urge that you vote for this measure when presented, but fight for its adoption, even though our Governor may veto it.

Numerously signed.

#### TWENTY-FIFTH DAY.

Senate Chamber,

Austin, Texas,

Monday, February 15, 1909.

Senate met pursuant to adjournment. Lieutenant Governor A. B. Davidson presiding.

Roll call, quorum present, the following Senators answering to their names:

Adams.	Hume.
Alexander.	Kellie.
Brachfield.	Masterson.
Bryan.	Mayfield.
Cofer.	Murray.
Greer.	Paulus.
Hayter.	Peeler.
Holsey.	Perkins.
Hudspeth.	Real.

Senter.	Veale.
Stokes.	Ward.
Sturgeon.	Watson.
Terrell of Bowie.	Weinert.
Terrell of McLennan.	Willacy.

Absent.

Harper.	Thomas.
Meachum.	

Prayer by the Chaplain, Rev. H. M. Sears.

Pending the reading of the Journal of yesterday, on motion of Senator Perkins, the same was dispensed with.

#### TELEGRAM FROM PORT ARTHUR.

The Chair had the following telegram read to the Senate:

Port Arthur, Texas, Feb. 14, 1909.

President of the Senate, Austin, Texas:

A Houston paper gives great display lines to an Austin dispatch of the 11th instant, headed "Port Arthur Rapped," and stating a portion of Moller's bill a trick, etc. We are in hearty sympathy with the Moller bill and hope for its passage. Kindly have this communication read before your members.

PORT ARTHUR BOARD OF TRADE,  
C. F. IRELAND, President.

#### INVITATION TO VISIT GALVESTON.

Senator Masterson offered the following invitation to visit Galveston:

Galveston, Texas, Feb. 13, 1909.

Hon. T. W. Masterson, Hon. Jens Moller and Hon. Marsene Johnson, Austin, Texas.

Dear Sirs: The city of Galveston, through you, desires to tender for transportation of Senate and House of Representatives of the State of Texas, twelve sleepers, to be used in carrying our guests from Austin to Galveston and return. These sleepers will be at depot in Austin, Friday evening, February 19, and will be subject to the orders of the two houses.

Please advise of your acceptance at once, and give hour at which our visitors will arrive in Galveston.

Yours truly,

H. A. LANDES,  
Mayor-President.

Senators Terrell of Bowie and Cofer moved that the invitation be accepted.